

03

Single Bench

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH

AT BILASPUR

CRIMINAL REVISION NO. 196 / 2006

1377/06
Applicant
Filed on 24/3/06
by Shri *[Signature]*
Advocate
R. to D.R. (J)
Versus

Prakash Gupta, 30 years,
S/o Prem Narayan Gupta,
R/o Nayamunda Para,
Ambedkar Ward, Jagdalpur
Dist : Bastar-(C.G.)

Non Applicant

State of Chhattisgarh
Through P.S. Bodhghat
Jagdalpur,
Dist : Bastar-(C.G.)

CRIMINAL REVISION U/S 397 READ WITH SECTION 401 OF
CODE OF CRIMINAL PROCEDURE.

COPY

आदेश पत्रक
Cr Rev. 196/06
मामला क्रमांक सन् 200
..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>28-03-2006</u> Shri Prafull Bharat learned counsel for the applicant. Shri U.K.S.Chandel, learned Panel Lawyer for the State. Learned counsel for the applicant does not press on M.Cr.P.No.616/2006 for grant of stay which is accordingly dismissed as not pressed. Learned counsel for the applicant further prays that this matter be finally heard and disposed of at the stage of admission. Prayer is not opposed. This revision is heard finally at the stage of admission. Brief facts are that one Sangeeta, daughter of Devi Prasad Gupta of village Donapal, Distt: Dantewada was married to the applicant herein on 18.6.1993. The applicant had three children out of the wedlock with Sangeeta. It is alleged that Sangeeta committed suicide on 18.2.2003 by hanging herself inside the toilet. Merg intimation was lodged by the applicant herein at P.S. Bodhghat. Post-mortem examination was conducted on the dead body of Sangeeta on 19.2.2003 by a team of doctors who opined that death of Sangeeta was due to hanging and the injuries were ante-mortem in nature. Devi Prasad Gupta, the father of the deceased-Sangeeta filed a written complaint at P.S. Bodhghat stating that soon after her marriage, Sangeeta was being harassed	

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	and beaten by the applicant, on account of demand for dowry. It was also learnt that the applicant had kept a mistress in Jagdalpur which was also a cause for repeatedly beating his wife Sangeeta. It also finds mention in the report lodged by Devi Prasad Gupta that a letter had been sent by Sangeeta in which she had stated that she was beaten to such an extent that she felt that some day she would be killed. The complaint further depicts that the harassment on account of demand for dowry as also the assault by the applicant herein on Sangeeta continued. It also shows that the applicant herein was such a greedy person that despite being paid the required sum of dowry of Rs.5,000/- by his father-in-law, he after sometime persisted with the harassment and beating of the wife on account of further demand for dowry. It also mentions that a fortnight before the incident, Sangeeta had informed her mother over the telephone that she was ^{so} severely beaten up by the applicant that her chances of survival were meager. Shri Prafull Bharat, learned counsel for the applicant has assailed the order dated 23.2.2006 passed by the learned Sessions Judge, Bastar at Jagdalpur in Sessions Trial No.49/2006 only so far as it relates to the framing of charge under Section 306 of IPC against the applicant. So far as the charge under Section 498-A	

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	IPC is concerned, learned counsel for the applicant did not press this revision on that count. The only point which thus requires consideration in this revision is whether there were sufficient grounds for framing a charge under Section 306 IPC in Sessions Trial No.49/2006 by the Sessions Judge, Bastar. Learned counsel for the applicant has argued that even if the entire material produced by the prosecution is taken at its face value, it would not disclose the commission of an offence even <i>prima facie</i> by the applicant under Section 306 IPC. He further contended that the mere fact of harassment by the applicant which is <i>prima facie</i> revealed by the documents under Section 173 Cr.P.C. would not constitute abetment as defined under Section 107 of IPC. On these grounds, he prayed that the impugned order, so far as it relates to framing of charge under Section 306 of IPC against the appellant should be set aside. On the other hand, Shri U.K.S.Chandel, learned Panel Lawyer for the State has argued in support of the impugned order. It is settled law that in order to frame a charge for the commission of an offence, the established test is that if the material produced by the prosecution is taken at its face value, it would reveal the ^{alleged} commission of an offence ~~alleged~~ by the accused.	

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	It is also settled law that in order to constitute abetment under Section 107 IPC, the instigation offered must be so direct, proximate and co-related with the act of commission of suicide to such an extent that it must be said that the applicant herein had abetted the commission of suicide by Sangeeta. Testing the material produced by the prosecution on the legally established touchstone as mentioned above, I find that the written complaint lodged by Devi Prasad Gupta depicts a horrifying manner in which Sangeeta was repeatedly harassed and beaten on account of demand for dowry to such an extent that on several occasions, she felt that her life was endangered. Considering the factual matrix unfolded by the written complaint lodged by Devi Prasad Gupta, it appears that after undergoing harassment and repeated assaults at the hands of the applicant ever since her marriage in the year 1993, Sangeeta was left with no other alternative, but to put an end to her life by committing suicide. If the written complaint and the statements under Section 161 Cr.P.C. are considered and the material is minutely looked into with introspection, it cannot be ruled out that there is material on record to show <i>prima facie</i> that the act of commission of suicide by Sangeeta had a direct nexus with the harassment and repeated assaults by the applicant herein, on account of demand for dowry.	

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	Under these circumstances, I am of the considered opinion that since an offence under Section 306 IPC is <i>prima facie</i> made out against the applicant, the impugned order framing charge thereunder calls for no interference in the exercise of revisional jurisdiction. In view of what has been stated above, there is no substance in this revision which is accordingly dismissed at the stage of admission.	Sd/- Dilip Raosaheb Deshmukh Judge